

Message Text

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E.O. 11652:GDS
TAGS: PLOS
SUBJECT: LOS CONFERENCE - HIGHLIGHTS OF APRIL 19

BEGIN SUMMARY. NEGOTIATING GROUPS FROM ALL THE COMMITTEES MET FOR A FULL DAY OF DISCUSSION ON THE OUTSTANDING ISSUES. THE SECRETARIAT REPORT AND MAP SHOWING CONTINENTAL SHELF FORMULAS WERE DISTRIBUTED. THE NEGOTIATING GROUPS ON FINANCIAL ARRANGEMENTS (NG-2) AND ON DELIMITATION (NG-7) HELD THEIR FIRST MEETINGS. THE USDEL CONTINUED A BROAD RANGE OF CONTACTS ON THE POLLUTION PROBLEM. END SUMMARY.

1. THE NJENGA WORKING GROUP (NG-1) MET ON APRIL 19 AND CONTINUED ITS DISCUSSION ON ARTICLE 151 AND THE TRANSFER OF TECHNOLOGY. GABON DENOUNCED THE DEVELOPED COUNTRIES FOR "WITHHOLDING" INFORMATION ON NODULE EXPLORATION FROM THE GROUP OF 77 (G-77). THE U.S. RESPONDED WITH AN OFFER TO COOPERATE IN A SEMINAR WHICH WOULD PROVIDE MORE INFORMATION ABOUT THE LOCATION AND EXTENT OF NODULE DEPOSITS.

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NJENGA PLANNED TO CONSULT THE SECRETARIAT ABOUT IMPLEMENTING THIS IDEA.

2. COMPLETING THE LIST OF SPEAKERS DN ARTICLE 151, NJENGA PROPOSED DISCUSSION ON ARTICLES 152 AND 153, WHILE CANADA PROPOSED PARAGRAPHS 4,5, AND 11 OF ANNEX II. BOTH SUGGESTIONS RECEIVED SUPPORT AND SO THE TOPIC WAS LEFT OPEN

TO BE DECIDED AT TRP APRIL 20 MEETING.

3. RESPONDING TO A SUGGESTION FROM MADAGASCAR, NJENGA SUGGESTED, AND THE GROUP ACCEPTED, THAT HE WOULD PRESENT WRITTEN PROPOSALS ON 151 TO THE WORKING GROUP AFTER CONSULTING WITH REPRESENTATIVES OF THE G-77 AND OF THE INDUSTRIALIZED COUNTRIES. (THIS WAS AN OBVIOUS REFERENCE TO THE HERETOFORE SECRET WORKING GROUP.)

4. THE KOH GROUP ON FINANCIAL ARRANGEMENTS (NG-2) HELD ITS FIRST MEETING THE AFTERNOON OF APRIL 19. AMBASSADOR KOH GAVE AN OVERVIEW OF THE ICNT FINANCIAL ARRANGEMENTS AND IT WAS AGREED TO TAKE UP, IN THE FOLLOWING ORDER: 1) FINANCING THE ENTERPRISE; 2) FINANCING THE AUTHORITY AND; 3) CONTRACTUAL ARRANGEMENTS BETWEEN CONTRACTORS AND THE AUTHORITY.

5. MOST OF THE DISCUSSION WAS PROCEDURAL, BUT INDIA ASKED TWO IMPORTANT QUESTIONS: HOW COULD THE G-77 BETTER ACQUAINT THEMSELVES WITH THE FACTS UNDERLYING FINANCIAL ARRANGEMENTS AND HOW WAS IT INTENDED TO PROVIDE THE ENTERPRISE WITH THE NECESSARY RESOURCES TO GO INTO BUSINESS. THE U.S. (KATZ) STATED THAT 200 COPIES OF THE MIT ECONOMETRIC STUDY OF SEABED MINING HAD BEEN SENT TO THE SECRETARIAT AND HE HOPED THAT SUCH A STUDY WOULD HELP DELEGATES TO UNDERSTAND THE FACTS (AS THEY ARE NOW KNOWN) UNDERLYING POSSIBLE FINANCIAL ARRANGEMENTS. THE U.S. ALSO REFERRED TO AMBASSADOR
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RICHARDSON'S STATEMENTS REAFFIRMING THE U.S. POSITION OF FULL SUPPORT TO MAKE BOTH SIDES OF THE PARALLEL SYSTEM WORKABLE.

6. NEGOTIATING GROUP 4 MET TO CONSIDER THE QUESTION OF THE BALANCE BETWEEN THE RIGHT OF THE COASTAL STATE TO DETERMINE ITS HARVESTING CAPACITY OF THE LIVING RESOURCES IN THE EEZ AND THE RIGHT OF THE LAND-LOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES (LL/GDS) TO PARTICIPATE IN THE EXPLOITATION OF THOSE RESOURCES. THE DEBATE WAS A RESTATEMENT OF OPPOSING POSITIONS AND NO PROGRESS WAS MADE. COASTAL STATES CONTINUED TO MAINTAIN THAT LL/GDS ACCESS MUST, BY VIRTUE OF NATIONAL INTERESTS, BE LIMITED TO THE SURPLUS. THIS WAS UNACCEPTABLE TO THE LL/GDS WHO ARE INSISTING ON A RIGHT OF ACCESS TO THE LIVING RESOURCES BY LL STATES WHETHER A SURPLUS (AS DETERMINED BY THE COASTAL STATE) EXISTED OR NOT.

7. COMMITTEE II MET AS A COMMITTEE-OF-THE-WHOLE TO RECEIVE THE REPORT OF THE SECRETARIAT ON THE DEFINITION OF THE OUTER LIMITS OF THE CONTINENTAL SHELF (COPY BEING POUCHED TO THE DEPARTMENT). THE SPECIAL REPRESENTATIVE OF THE SECRETARY

GENERAL NOTED THAT THE REPORT WAS STILL INCOMPLETE SINCE IT DID NOT YET INCORPORATE THE CALCULATIONS OF AREAS DERIVED FROM THE APPLICATION OF RESPECTIVE DEFINITIONAL FORMULAS. IT WAS FURTHER NOTED THAT THE CARTOGRAPHICAL REPORT CONTAINED CONSIDERABLE DISTORTIONS SINCE IT WAS BASED ON MERCATOR PROJECTIONS. AFTER A SHORT DEBATE ON THE PROGRAM OF WORK FOR THE DEFINITION-OF-SHELF ISSUE, IT WAS DECIDED THAT THE MATTER WOULD BE TAKEN UP IN AN OPEN-ENDED, NON-NUCLEUS NEGOTIATING GROUP WHICH WOULD, AT LEAST INITIALLY, BE CHAIRED BY AGUILAR.

8. ON THE QUESTION OF THE DETERMINATION OF OTHER ISSUES INSUFFICIENTLY DEBATED IN COMMITTEE, AGUILAR SUGGESTED THREE POSSIBLE ALTERNATIVES FOR THE DETERMINATION OF THESE

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"OTHER ISSUES." ONE OF THESE, (MINI-CONSULTATIVE GROUPS COMPOSED OF MOST INTERESTED STATES), COULD HAVE RESULTED IN A PROLIFERATION OF NEGOTIATING GROUPS. THE U.S. (CLINGAN) WAS INSTRUMENTAL IN HEADING OFF THIS MOVE BY NOTING THERE

IS AN INHERENT TENDENCY OF SMALL, OPEN-ENDED GROUPS TO MUSH-
ROOM INTO MUCH LARGER BODIES. THIS OPERATIONAL AND
PRACTICAL WEAKNESS COULD HAVE A DISRUPTIVE IMPACT ON THE
NEGOTIATING GROUPS CONCERNED WITH "HARD-CORE ISSUES".

AGUILAR ACCEPTED THIS ARGUMENT AND SEIZED UPON A PROPOSAL
BY PAPUA NEW GUINEA TO HAVE EACH DELEGATION SUBMIT A LIST
OF THE NON-HARD CORE ISSUES WHICH SHOULD RECEIVE GREATEST
PRIORITY. THE IMMEDIATE DETERMINATION OF "OTHER ISSUES",
BEING URGED BY A SMALL GROUP OF SELF-INTERESTED STATES, WAS
THEREFORE MOMENTARILY DEFERRED.

9. NG-7 (ON DELIMITATION) HELD ITS FIRST MEETING ON APRIL
19 TO DISCUSS ITS ORGANIZATION AND PROGRAM OF WORK. NINETY-
EIGHT DELEGATIONS ATTENDED AND INDICATED THEY PLAN TO parti-
CIPATE IN THE GROUP. CHAIRMAN MANNER OF FINLAND ANNOUNCED
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THAT FOUR MORE NG-7 MEETINGS ARE SCHEDULED, ONE EACH WORKING
DAY THROUGH TUESDAY, APRIL 25. HE PROPOSED THAT THERE BE NO
GENERAL DEBATE; THAT THE GROUP CONSIDER THE FOUR RELEVANT
INCT ARTICLES: 15, 74, 83 AND 297(1)(A). WHILE MOST AGREED
TO FOREGO GENERAL DEBATE, CHILE SUGGESTED THAT THE FIRST
ORDER OF BUSINESS SHOULD BE A "GLOBAL DEBATE" ON THE RELA-
TION BETWEEN THE CONTENTIOUS SUBSTANTIVE ARTICLES ON
DELIMITATION, 74 AND 83, AND ARTICLE 297(1)(A) ON DISPUTE
SETTLEMENT. A DISCUSSION OF PARTICULAR ARTICLES AND POINTS
COULD THEN FOLLOW. CHILE WAS SUPPORTED BY CANADA, COLOMBIA,
ECUADOR, GREECE, ISRAEL, MALTA, SPAIN. ON THE OTHER SIDE,
IRELAND, FOLLOWED BY IRAQ, LIBYA AND TURKEY, ADVOCATED
GOING DIRECTLY TO A DISCUSSION OF THE IMPORTANT DELIMITATION
AND DISPUTE SETTLEMENT. NO DELEGATION SUPPORTED THE
CHAIRMAN'S SUGGESTION THAT THE GROUP BEGIN WITH CONSIDERA-
TION OF ARTICLE 15 CONCERNING DELIMITATION IN THE TERRITORIAL
SEA. TWO DELEGATIONS, CANADA AND SPAIN, EXPLICITLY OPPOSED
DISCUSSION OF WHAT THEY REGARD AS A SETTLED ARTICLE.

10. IN CLOSING THE CHAIRMAN RULED THAT THE NEXT MEETING
WOULD DISCUSS THE RELATION AMONG THE THREE DELIMITATION
ARTICLES AND BETWEEN THEM AND DISPUTE SETTLEMENT.
NOTWITHSTANDING LACK OF SUPPORT, HE ADDED THE GROUP WOULD
BEGIN ARTICLE-BY-ARTICLE DISCUSSION WITH ARTICLE 15.

COMMITTEE THREE - POLLUTION MEETINGS

11. LOSDEL POLLUTIONMARINE SCIENTIFIC RESEARCH TEAM
MET WITH SEVERAL DELEGATIONS TO DEVELOP SUPPORT FOR
U.S.-PROPOSED AMENDMENTS. NEW ZEALAND EXPRESSED ITS
AGREEMENT AND CAN BE COUNTED TO PLAY A SUPPORTING ROLE.
AT ANOTHER MEETING (WITH REPS F
ROM TRINIDAD AND TOBAGO,
MEXICO, NORWAY, BRAZIL, CANADA, NEW ZEALAND, FRANCE AND

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U.K.) THE U.S. OUTLINED ITS PROBLEMS WITH THE ICNT. DISCUSSION THEN CENTERED ON ARTICLE 222 (MEASURES FOLLOWING A MARITIME CASUALTY). THE U.S. SUGGESTED THE ADDITION OF THE DEFINITION OF A MARITIME CASUALTY FROM THE 1969 INTERVENTION CONVENTION IN ORDER TO MAKE CLEAR THAT A STATE COULD ACT IN AN AMOCO CADIZ SITUATION. FRENCH PROPOSED TO ALLOW COASTAL STATE ACTION WITHOUT SHOWING THAT THE SHIP IS FACED WITH A "GRAVE AND IMMINENT" DANGER. THE U.S. PROPOSAL RECEIVED SOME SUPPORT, ALTHOUGH THE DEFINITION OF THE INTERVENTION CONVENTION WAS CONSIDERED BY MOST TO BE INCORPORATED BY REFERENCE. THE FRENCH PROPOSAL RECEIVED NO SUPPORT AND WAS OPPOSED BY SOME.

12. THE G-5 EXPERTS ALSO MET TO WORK OUT AGREED LANGUAGE ON PROPOSED POLLUTION CHANGES. THE FRENCH INTRODUCED AN "INFORMAL UNOFFICIAL" PROPOSAL REGARDING ARTICLE 212 (2) BIS REGIONAL ARRANGEMENTS, WHICH DREW USSR, U.K. AND JAPANESE REACTIONS THAT THE CONCEPT HAMPERED INNOCENT PASSAGE.

THE U.S. PROPOSALS FOR ARTICLE 97 AND 213 WERE VIEWED AS TECHNICAL CORRECTIONS.

ARTICLE 212 (1) PROPOSAL REGARDING ROUTING SYSTEM WAS REVISED TO READ AS FOLLOWS: "AND PROMOTE THE ADOPTION OF APPROPRIATE ROUTINE SYSTEMS, DESIGNED TO MINIMIZE THE THREAT OF ACCIDENTS CAUSING POLLUTION OF THE MARINE ENVIRONMENT, INCLUDING THE COASTLINE AND RELATED INTERESTS OF COASTAL STATES".

THE JAPANESE SUGGESTED THAT THE U.S. PROPOSAL FOR ARTICLE 212 (3), (TO CLARIFY COASTAL STATE STANDARD SETTING AUTHORITY IN THE TERRITORIAL SEA), BE EXPRESSLY SUBJECT TO ARTICLE 21 (2).

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A REDRAFT OF THE PROPOSED ARTICLE 212 NOTICE REQUIREMENT

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WAS PRODUCED AS FOLLOWS, WITH THE JAPANESE RESERVING
ON THE SELF INCRIMINATION PROVISO:

"THE INTERNATIONAL RULES AND STANDARDS REFERRED TO
IN THIS ARTICLE INCLUDE THOSE RELATED TO NOTICE OF
INCIDENTS INVOLVING DISCHARGE OR PROBABLE DISCHARGE,
PROVIDED THE NOTICE SUPPLIED BY A MASTER PURSUANT TO
SUCH A REQUIREMENT MAY NOT BE USED AGAINST HIM IN THE
DETERMINATION OF ANY CRIMINAL CHARGE MADE AGAINST HIM
BY, OR AT THE REQUEST OF, THE COASTAL STATE".

SUBSTANTIAL EFFORT WAS DEVOTED TO THE CLARIFICATION
SOUGHT IN ARTICLE 221 (6) WITH THE U.K., USSR AND
JAPANESE STRONGLY OPPOSED TO DELETION OF THE WORD
"MAJOR" IN THE PHRASE "CAUSING MAJOR DAMAGE OR THREAT
OF MAJOR DAMAGE". NEGOTIATIONS ON THE REMAINING U.S.
PROPOSALS AS WELL AS FRENCH PROPOSALS FOR ARTICLE 222
AND 229 ARE EXPECTED TO BE CONTENTIOUS, PARTICULARLY
WITH RESPECT TO ARTICLE 229. RICHARDSON

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